IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8004 OF 2005

OFFICE NOTES, OFFICE MEMORANDUM OF CORAM, APPEARANCES, COURT'S ORDERS OR DIRECTIONS AND REGISTRAR'S ORDERS	COURT'S OR JUDGES ORDERS

Shri S.S.Patwardhan for the Petitioner.

CORAM : A. S. OKA, J.

DATE : FEBRUARY 06, 2007.

P.C.:

1. Heard Shri Patwardhan for the Petitioner. His contention is that since the prayer in the suit is in the nature of removal of encroachment on a road, it was necessary for the trial Court to appoint a survey officer under the Maharashtra Land Revenue Code, 1966, as the court commissioner. He pointed out that the prayer in the Application at Exhibit 74 made by the Petitioner is for appointing the Assistant Director of Town Planning of the Municipal Corporation of the City of Kolhapur as a court commissioner. He seeks permission to withdraw the said Application

at Exhibit 74 with a liberty to file a fresh Application for appointment of a survey officer under the Maharashtra Land Revenue Code, 1966 as the court commissioner. Accordingly, Petitioner is allowed to withdraw the Application at Exhibit 74. Hence, the impugned order has become inoperative. Liberty to the Petitioner to make a fresh Application before the Trial Court as stated above. The Trial Court will decide the fresh Application, if made, in accordance with law.

JUDGE